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Hotel, LLC; and Beach Orangethorpe Hotel II, LLC*

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA DIVISION

In re:

THE SOURCE HOTEL, LLC, a
California limited liability company,

Debtor and Debtor in Possession.

Case No.: 8:21-bk-10525-ES
Chapter 11

**LIMITED OBJECTION OF EB5
PARTIES TO DEBTOR'S MOTION FOR
ENTRY OF ORDER: (1) AUTHORIZING
SALE OF SUBSTANTIALLY ALL OF
THE DEBTOR'S ASSETS; (2)
AUTHORIZING THE DEBTOR'S
ASSUMPTION AND ASSIGNMENT OF
GROUND LEASE AND DETERMINING
CURE AMOUNT; (3) WAIVING THE 14-
DAY STAY PERIODS SET FORTH IN
BANKRUPTCY RULES 6004(H) AND
6006(D); AND (4) GRANTING RELATED
RELIEF.**

Hearing:

Date: September 30, 2021

Time: 2 p.m.

Place: ZoomGov

¹ The EB5 Investors are (1) Jian Hua, (2) Jun Liu, (3) Haiyuan Ma, (4) Zhen Liu, (5) Jiabin Bao, (6) Liu Shanshan, (7) Shengkeng Chen, (8) Yichen Lei, (9) Zihe Xu, (10) Xinyi Zhou, (11) Li Dan, (12) Rui Bai, (13) Haiwan Du, (14) Yijian Jiang, (15) Lei Liang, (16) Yi Wan, (17) Yue Wang, (18) Galu Wulan, (19) Yan Xing, (20) Jianyao Zhang, (21) Jing Zhang, (22) Yuyun Wu, (23) Ziyu Li, (24) Jingkun Shan, (25) Doan Huong Thao, (26) Kwok Shung Chi, and (27) Sundi Xiao.

The EB5 Investors, Beach Orangethorpe Hotel, LLC, and Beach Orangethorpe Hotel II, LLC (collectively, the “EB5 Parties”),² by and through their undersigned counsel, hereby submit this limited objection (this “Limited Objection”) to the *Debtor’s Motion For Entry of Order: (1) Authorizing Sale of Substantially All of the Debtor’s Assets; (2) Authorizing the Debtor’s Assumption and Assignment of Ground Lease and Determining Cure Amount; (3) Waiving the 14-Day Stay Periods Set Forth in Bankruptcy Rules 6004(h) And 6006(d); and (4) Granting Related Relief* [ECF No. 227] (the “Motion”), and respectfully represent:

LIMITED OBJECTION

Beach Orangethorpe, LLC and Beach Orangethorpe II, LLC (together, the “Landlord’s Creditors”)³ recently filed an objection [ECF No. 235]⁴ to the Motion on the basis that the ground lease (as to which the Debtor is a lessee) should not be assumed and assigned until certain mechanic liens (filed by the Debtor’s creditors) that encumber the fee simple interest of The Source At Beach, LLC (the “Debtor’s Landlord”) are extinguished. The ground lease is one of the most valuable assets of the Debtor and the disposition of the ground lease should be resolved well before the bid deadline in order for potential bidders to perform a proper valuation of the Debtor’s assets. All stakeholders in this case will be detrimentally affected to the extent that potential bidders are discouraged from fully participating because of concerns regarding the ground lease. The EB5 Parties are monitoring the situation in their capacity as both a potential

² Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to them in the Motion (as hereinafter defined). As set forth in the *Notice of Appearance* [ECF No. 226], the EB5 Investors successfully appointed a Special Manager for Beach Orangethorpe Hotel, LLC and Beach Orangethorpe Hotel II, LLC with the assistance of this Court’s Order with respect to the contact information of the EB5 members.

³ Although the Landlord’s Creditors (e.g., Beach Orangethorpe, LLC) have names that are very similar to the names of the EB5 Parties (e.g., Beach Orangethorpe Hotel, LLC), the two parties are distinct legal entities without any overlap. The reason they have similar sounding names is because they were all formed by the Guarantors to provide loans to different borrowers owned by the Guarantors.

⁴ The Landlord’s Creditors inadvertently filed their objection on the docket on behalf of the EB5 Parties. They have advised the EB5 Parties that they will soon correct the filing after the Yom Kippur holiday.

bidder⁵ and also as a secured creditor that desires a robust sales process for the benefit of all stakeholders.

In addition, Shady Bird Lending, LLC (“Shady Bird”) filed an objection [ECF No. 237] to the Motion on the basis that Shady Bird consents to a free and clear sale under section 363(f)(2) of title 11 of the United States Code (the “Bankruptcy Code”), but only to the extent they are paid in-full. The EB5 Parties cannot consent under section 363(f)(2) if other secured creditors are unwilling to do so.

Notwithstanding the foregoing, the EB5 Parties remain hopeful that barriers to a robust sale process will be resolved prior to the auction.

Dated: New York, New York
September 16, 2021

By: /s/ Edward Wu

Robert K. Lu
Edward Wu

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Orangethorpe Hotel II, LLC*

⁵ The EB5 Parties are still negotiating the terms of their joint bid. There is no certainty that a joint bid will materialize. The EB5 Parties reserve the right to request Court approval to approach and partner with other bidders in the event that the joint bid does not materialize.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

One Penn Plaza, Suite 2015
New York, New York 10119

A true and correct copy of the foregoing document entitled (*specify*):

LIMITED OBJECTION OF EB5 PARTIES TO DEBTOR'S MOTION FOR ENTRY OF ORDER: (1) AUTHORIZING SALE OF SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS; (2) AUTHORIZING THE DEBTOR'S ASSUMPTION AND ASSIGNMENT OF GROUND LEASE AND DETERMINING CURE AMOUNT; (3) WAIVING THE 14-DAY STAY PERIODS SET FORTH IN BANKRUPTCY RULES 6004(H) AND 6006(D); AND (4) GRANTING RELATED RELIEF.

will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 9/16/21, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Ron Bender rb@lnbyb.com
- Christopher G. Cardinale ccardinale@agclawfirm.com, mgonzalez@agclawfirm.com
- Michael G Fletcher mfletcher@frandzel.com, sking@frandzel.com
- Amir Gamliel amir-gamliel-9554@ecf.pacerpro.com,
cmallahi@perkinscoie.com; DocketLA@perkinscoie.com
- Robert P Goe kmurphy@goeforlaw.com, rgoe@goeforlaw.com; goeforecf@gmail.com
- Nancy S Goldenberg nancy.goldenberg@usdoj.gov
- Peter F Jazayeri peter@jaz-law.com
- Daniel A Lev dlev@sulmeyerlaw.com, ccaldwell@sulmeyerlaw.com; dlev@ecf.inforruptcy.com
- Robert K Lu ewu@reidwise.com
- Kyle J Mathews kmathews@sheppardmullin.com
- Juliet Y Oh jyo@lnbyb.com, jyo@lnbrb.com
- Ho-El Park hpark@hparklaw.com
- Ronald N Richards ron@ronaldrichards.com, morani@ronaldrichards.com
- United States Trustee (SA) ustregion16.sa.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

9/16/21

Date

Edward Wu

Printed Name

/s/ Edward Wu

Signature